

Michelle MacDonald Shimota

10/20/2016

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 -----
4 Michelle MacDonald Shimota, et al.,

5 Plaintiffs,

6 vs.

CASE NO. 15-CV-1590-JRT-KMM

7 Bob Wegner, et al.,

8 Defendants.
9 -----

10
11 VIDEOTAPED DEPOSITION OF
12 MICHELLE MACDONALD SHIMOTA

13
14 Taken October 20, 2016
15 Commencing at 8:38 a.m.
16
17
18
19
20
21
22
23
24

25 REPORTED BY: AMY KRISTINA LIZOTTE

Michelle MacDonald Shimota
10/20/2016

Page 2

1 Videotaped Deposition of MICHELLE
2 MACDONALD SHIMOTA taken on October 20, 2016,
3 commencing at 8:38 a.m., at Dakota County
4 Administration Center, 1590 Highway 55, Hastings,
5 Minnesota, before Amy Kristina Lizotte, Notary
6 Public of and for the State of Minnesota.

7
8 *****

9
10 APPEARANCES

11
12 On Behalf of the Plaintiffs:

13 Michael B. Padden, Esq.
14 mike.padden@paddenlaw.com
15 PADDEN & McCOLLISTER, PLLC
16 8673 Eagle Point Boulevard
17 Lake Elmo, Minnesota 55042
18 612-669-4542
19
20
21
22
23
24
25

Michelle MacDonald Shimota

10/20/2016

Page 3

1 On Behalf of the Defendants:

2 Jeffrey A. Timmerman, Esq.

3 jeff.timmerman@co.dakota.mn.us

4 Assistant County Attorney

5 Dakota County Judicial Center

6 1560 Highway 55

7 Hastings, Minnesota 55033

8 651-438-4438

9
10
11
12 VIDEOGRAPHER: Pat Curto

13
14
15
16 NOTE: The original transcript will be filed
17 with Jeffrey Timmerman, Assistant County Attorney,
18 pursuant to the applicable Rules of Civil Procedure.
19
20
21
22
23
24
25

Michelle MacDonald Shimota
10/20/2016

Page 4

INDEX

WITNESS: MICHELLE MACDONALD SHIMOTA PAGE

EXAMINATION BY MR. TIMMERMAN..... 9

OBJECTIONS:

BY MR. PADDEN: 58, 84, 85, 99, 124, 131,
230, 231, 232, 252

INSTRUCTIONS NOT TO ANSWER: (NONE)

PRODUCTION REQUESTS: (NONE)

EXHIBITS MARKED AND REFERRED TO:

Exhibit 1: Jared, The Galleria of Jewelry

receipt = Bates MacDonald 00502-00510... 16

Exhibit 2: Judicial Election Committee of the

2014 RPM State Convention = Bates

MacDonald 00655-00674..... 29, 127, 140

Michelle MacDonald Shimota

10/20/2016

Page 5

1	Exhibit 3: Incident, Dakota Sheriff, Case Number	
2	13001625 = Bates DC 00056-00059.....	35, 91
3	Exhibit 4: Affidavit of David Knutson.....	46, 187
4	Exhibit 5: Plaintiff's Amended Answers to	
5	Defendants' Interrogatories.....	56
6	Exhibit 6: Movement log for Michelle MacDonald	98
7	Exhibit 7: Deputy Roster, Dakota County = Bates	
8	DC 00002-00003, CONFIDENTIAL.....	105
9	Exhibit 8: Police Central - Full Incident Report	
10	Dakota County Jail, 9-12-13 = Bates	
11	DC 00042-00044.....	116
12	Exhibit 9: Report, actual date and time, category,	
13	comments, name, staff description = Bates	
14	DC 00032-00036.....	138, 143
15	Exhibit 10: Color copies of photos, Negative	
16	Pressure room, Bates DC 00070-00073,	
17	CONFIDENTIAL.....	159
18	Exhibit 11: Re: First Letter - MacDonald	
19	hearing Oct. 1 at 1:30 = Bates	
20	MacDonald 00581-00585.....	167
21	Exhibit 12: First Amended Complaint.....	182
22	Exhibit 13: Police Central - Inmate Property =	
23	DC 00053-00054.....	182, 193
24		
25		

Michelle MacDonald Shimota

10/20/2016

Page 6

1	Exhibit 14: 11-4-14 letter to Dakota County	
2	District Court from Associated Clinic of	
3	Psychology, Gregory Hanson, PhD.....	223
4	Exhibit 15: Petition for Disciplinary Action	
5	against Michelle Lowney MacDonald.....	243
6	Exhibit 16: YouTube - Michelle MacDonald for	
7	Justice.....	261
8	Exhibit 17: State of Minnesota v Michelle	
9	MacDonald Shimota, motion hearing.....	263
10	Exhibit 18: "Sandra Grazzini-Rucki and the World's	
11	Last Custody Trial," by Attorney Michelle	
12	MacDonald and Michael Volpe.....	272

(Original exhibits attached to original transcript;
copies attached to transcript copies.)

Michelle MacDonald Shimota

10/20/2016

Page 7

1 MR. PADDEN: Today's deposition is
2 being videotaped. And I'd like an agreement that
3 this video will only be used for purposes of this
4 litigation, will not be disseminated publicly to
5 media or anyone outside of this lawsuit. And I'd
6 like that agreement to extend to Counsel's
7 employees.

8 The reason I mention that is because -- and
9 I'm not critical of this at all, but images taken
10 earlier that are the subject of this case have ended
11 up in the public domain, that I've made clear in
12 communications. And I realize there may be issues
13 pertaining to the freedom of information. I'm not
14 going to get into all of that. But I want an
15 understanding that this video deposition will not be
16 disseminated publicly.

17 I assume that's agreeable, Counsel?

18 MR. TIMMERMAN: Yes, that's agreeable.
19 Just one clarification in terms of showing it to my
20 staff, I can -- with the understanding that it's not
21 going to be publicly disseminated, I may show it to
22 my coworkers.

23 MR. PADDEN: Absolutely, that's fine.
24 And obviously if we had a trial you're going to be
25 playing it in the courtroom, I get all that.

Michelle MacDonald Shimota

10/20/2016

Page 8

1 MR. TIMMERMAN: Correct.

2 MR. PADDEN: I just don't want the
3 physical video disseminated publicly. I take it we
4 have an agreement in that regard?

5 MR. TIMMERMAN: Absolutely.

6 MR. PADDEN: And I would provide the
7 same agreement to you if I take video depositions of
8 your witnesses. I don't plan on doing that, but I
9 could change my mind. But I just want to make sure
10 that you understand that would be reciprocal.

11 MR. TIMMERMAN: Yeah, that makes sense.

12 MR. PADDEN: Okay. All right.

13 MR. TIMMERMAN: I appreciate it.

14 MR. PADDEN: Okay. Fair enough.

15 THE VIDEOGRAPHER: Here begins disc
16 number one in the deposition of Michelle MacDonald
17 Shimota, taken in the matter of Michelle MacDonald
18 Shimota, et al., versus Bob Wegner, et al., United
19 States District Court for the District of Minnesota,
20 case number 15-CV-1590-JTR [sic] KMM. Today's date,
21 as indicated, is October 20, 2016. The time as
22 indicated is 8:42 a.m.

23 My name is Pat Curto. I'm a certified legal
24 video specialist in association with Paradigm
25 Digital Videography.

Michelle MacDonald Shimota

10/20/2016

Page 9

1 Would counsel please state their appearances
2 for the record, starting with the noticing attorney.

3 MR. TIMMERMAN: Good morning. I'm Jeff
4 Timmerman, and I represent defendants, Dakota
5 County, Bob Wegner, Christopher Melton, Timothy
6 Gonder, and Jon Napper.

7 MR. PADDEN: Michael Padden on behalf
8 of plaintiff.

9 THE VIDEOGRAPHER: Thank you. The
10 court reporter is Amy Lizotte of Paradigm Reporting
11 and Captioning. Ms. Shimota, you may remain --
12 Ms. MacDonald, I'm sorry, you may remain seated and
13 the court reporter will swear you in.

14 MICHELLE SHIMOTA MACDONALD,
15 duly sworn, was examined and testified as follows:

16 EXAMINATION

17 BY MR. TIMMERMAN:

18 Q. Good morning. Would you prefer that I call
19 you Ms. MacDonald or Ms. Shimota today?

20 A. Ms. MacDonald.

21 Q. Ms. MacDonald, okay. Could you please state
22 your full legal name for the record.

23 A. It's Michelle Lowney MacDonald Shimota.

24 Q. And, Ms. MacDonald, what is your address?

25 A. It's 2800 - 130th Street West, Rosemount,

Michelle MacDonald Shimota

10/20/2016

Page 10

1 Minnesota, 55068.

2 Q. Thank you. Now, I understand you've gone by
3 Michelle Lowney, correct, in the past?

4 A. I -- that was my maiden name.

5 Q. Maiden name. And then MacDonald, which you
6 go by now, and Shimota as well. Are there any other
7 names that you've gone by other than those three
8 names?

9 A. No.

10 Q. Have you ever given a deposition before?

11 A. Yes.

12 Q. And when was that?

13 A. It was in 2012, I'm not sure exactly when.

14 Q. Was that in a civil lawsuit?

15 A. Might be in -- yes.

16 Q. What kind of a lawsuit was that?

17 A. It was a lawsuit brought against Family
18 Innocence Project, when we were Family Innocence
19 Project, by the Innocence Project for trademark and
20 name change.

21 Q. Okay. I'm familiar with that lawsuit. And
22 as a result the name was changed to Family
23 Innocence, correct?

24 A. Correct.

25 Q. Okay. Any other depositions that you've

Michelle MacDonald Shimota

10/20/2016

Page 11

1 given before in the past?

2 A. Not that I recall.

3 Q. Okay. Well, I just want to go over a couple
4 of ground rules that I go over with everyone just to
5 try and keep us on the same page here today.

6 Obviously we have a court reporter here today and a
7 videographer. If you could refrain from answering
8 questions by nodding or shaking your head, I would
9 appreciate it. Okay?

10 A. Okay.

11 Q. Okay. I'll do the same thing at some point
12 I'm sure. It's inevitable I think. If you need to
13 take a break today at any point, we certainly can.
14 This is not a marathon and I'm not trying to trick
15 you. If you need to take a break, let me know, and
16 we can accommodate that. Okay?

17 A. Thank you.

18 Q. If you don't understand a question that I
19 ask, just tell me and I'll try my best to ask a
20 better question. Okay?

21 A. Thank you.

22 Q. Likewise, if I'm confusing, and I'm going to
23 try not be confusing, but if I am just let me know.
24 Okay?

25 A. Thank you. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 12

1 Q. If you answer a question I will assume that
2 you understood the question. Is that fair?

3 A. Thank you. Yes.

4 Q. And the last two kind of ground rules here,
5 if you want to correct an answer at any point today
6 just let me know. Okay?

7 A. Okay.

8 Q. And likewise, if you want to supplement or
9 add to an answer at any point today, just let me
10 know and we can do that. Okay?

11 A. Okay.

12 Q. Is there any reason why you would be unable
13 to answer my questions truthfully today?

14 A. No.

15 Q. Are you presently on any medications that
16 affect your memory at all?

17 A. No.

18 Q. If at any point today you believe you are
19 unable to continue answering my questions, just let
20 me know that. Okay?

21 A. Okay.

22 Q. What did you do to prepare for your
23 deposition today?

24 A. Prayed.

25 Q. Anything else?

Michelle MacDonald Shimota

10/20/2016

Page 13

1 A. Thought about things.

2 Q. Prayed and thought about things. Anything
3 else?

4 A. No.

5 Q. Okay. And I want to make one additional
6 ground rule clear today. I don't want to know about
7 anything that you discussed with your lawyer. My
8 questions are not intended to infringe upon the
9 attorney/client privilege. So I just want to make
10 that clear. If there is any information I'm seeking
11 from that you does, just let me know. Okay?

12 MR. PADDEN: To be clear, Michelle, I
13 think what Jeff is asking about is any preparation
14 you would have done other than speaking with me. I
15 think that was presumed in the question, so.

16 Q. Correct.

17 A. Thank you.

18 Q. Did you review any documents to prepare for
19 your deposition today?

20 A. I didn't. I didn't have time unfortunate --
21 you know, I just didn't have time, so I didn't.

22 Q. Other than your attorneys, with whom have
23 you discussed the fact that you were being deposed
24 today?

25 A. That I was being deposed today? My husband,

Michelle MacDonald Shimota
10/20/2016

Page 14

1 my attorneys, my paralegal, because she had to
2 schedule it. I can't think of anyone else.

3 Q. Okay. And this question is not meant to be
4 offensive, I ask everyone this, but are you
5 presently in bankruptcy?

6 A. No.

7 Q. Any plans to file bankruptcy in the future?

8 A. No.

9 Q. I'm planning today to limit the scope of my
10 questions to your four remaining claims in this
11 lawsuit. Do you understand that you have four
12 remaining claims in this lawsuit?

13 A. Yes.

14 Q. Okay. I just want to quickly go over those
15 so that we're on the same page. The first is a
16 Fourth Amendment claim relating to the search of a
17 digital camera, correct?

18 A. Yes.

19 Q. And the second remaining claim is a
20 Fourteenth Amendment substantive due process claim
21 relating to the conditions of your confinement. Do
22 you understand that?

23 A. Yes.

24 Q. And the third claim is a theft or taking
25 claim relating to the gold cross pendant you claim

Michelle MacDonald Shimota
10/20/2016

Page 15

1 was lost while you were confined. Do you understand
2 that as well?

3 A. Yes.

4 Q. And the fourth claim is a respondeat
5 superior claim against Dakota County based on the
6 loss of that pendant. Do you understand that as
7 well?

8 A. Yes.

9 Q. Now, you've produced some documentation in
10 this litigation concerning the gold cross pendant.
11 It looks like a Jared Galleria receipt. I have to
12 be honest, I can't make out the numbers on it or
13 really anything on it. Can you tell me how much
14 that gold cross pendant cost?

15 A. Well, my husband bought it for me for my
16 birthday. And if I saw the receipt, I could help
17 you out with the date. He bought it, so he paid for
18 it.

19 Q. Okay. I think it was 2008. Does that sound
20 correct?

21 A. I'll have to look at the receipt.

22 Q. Okay.

23 A. But it was, you know, several years before
24 this incident.

25 MR. TIMMERMAN: Could you please mark

Michelle MacDonald Shimota

10/20/2016

Page 16

1 this as Exhibit 1 to the deposition.

2 (MacDonald Deposition Exhibit No. 1
3 marked for identification.)

4 MR. PADDEN: Madam Court Reporter, did
5 you get Jeff saying he has copies for me?

6 THE REPORTER: No, I didn't.

7 MR. PADDEN: Okay. And my response?

8 THE REPORTER: No.

9 MR. PADDEN: I said, thank you.

10 BY MR. TIMMERMAN:

11 Q. Ms. MacDonald, these are documents you
12 produced in this litigation relating to the gold
13 cross pendant. In reviewing these documents, does
14 this refresh your recollection regarding when the
15 pendant was purchased and the purchase price of the
16 pendant?

17 A. I can't read it very well either, but in my
18 interrogatories I wrote down the numbers.

19 Q. You did?

20 A. Yes.

21 Q. Okay. In your original interrogatory
22 answers you did?

23 A. I believe I did.

24 Q. Pardon me while I take a look here.

25 Interrogatory number 4 asks, identify the monetary

Michelle MacDonald Shimota

10/20/2016

Page 17

1 value of the necklace, necklace defined to mean the
2 gold cross pendant, and every document that
3 evidences the value of the necklace.

4 And your answer to that interrogatory was,
5 see the receipt which is part of this answering
6 parties response to defendant's document request
7 pleading.

8 A. Oh, I'm sorry about that. I thought I had
9 written the number down. And I have a clearer copy
10 of the receipt. But I thought it was around you
11 know, 500 and some odd dollars.

12 Q. Around \$500?

13 A. A little more than \$500.

14 Q. Is that including the service plan that was
15 purchased for it or exclusive of that service plan?

16 A. Exclusive. And then it says 219.99 here as
17 well. I don't know that that was the service plan.

18 Q. So that may be the service plan, but it may
19 not, we just don't know?

20 A. Right, right.

21 Q. Could you give me an estimated value, and I
22 understand that this receipt is not entirely
23 legible, to the best of your recollection an
24 estimated value of the cost of the service plan?

25 A. I don't know. My husband bought it.

Michelle MacDonald Shimota

10/20/2016

Page 18

1 Q. Okay.

2 A. He'd be a better witness for that because he
3 bought it --

4 Q. Sure.

5 A. -- for me.

6 Q. And the digital camera that is the subject
7 of your Fourth Amendment claim, is it your
8 understanding that I returned that to your lawyers
9 in this lawsuit?

10 A. After several years, yes.

11 Q. Okay. And do you have that camera now?

12 A. Yes. And there were many photographs in the
13 camera, thousands of them, that you finally
14 returned, you slipped it to one of my attorneys at a
15 hearing was my understanding.

16 Q. Yes, I had made an agreement with your
17 attorney that I would personally look for the camera
18 and return it if I found it. And then I did, so.

19 Any pictures on that camera that you claim
20 were deleted at all while it was in the custody of
21 the Dakota County Sheriff's Office?

22 A. I don't know. I haven't looked at all the
23 pictures.

24 Q. Okay. Now, it's my understanding --

25 A. I think I gave you all the pictures in

Michelle MacDonald Shimota

10/20/2016

Page 19

1 discovery.

2 Q. You did, you did produce a lot of pictures.
3 I'm just wondering if you're claiming in the lawsuit
4 that any photos were deleted from that camera while
5 it was in my client's possession.

6 A. It was gone for so long I can't answer that.
7 I just know that there were thousands of pictures,
8 and I did provide you with all of those that were in
9 my camera.

10 Q. Fair enough. And I understand that you've
11 alleged in this lawsuit that on September 12, 2013
12 your cell phone was seized as well, correct?

13 A. Yes.

14 Q. For how long was your cell phone seized?

15 A. Hours, until -- let's see, I want to say 30
16 hours.

17 Q. Was it returned to you when you were
18 released from the Dakota County jail?

19 A. It was in my property bag.

20 Q. The property bag that you received upon
21 being released from the jail?

22 A. Right.

23 Q. I'm going to refer just -- I'm going to
24 refer to the Dakota County jail just as the jail
25 today. Is that okay with you?

Michelle MacDonald Shimota

10/20/2016

Page 20

1 A. Yes.

2 Q. Okay. Are you claiming in the lawsuit that
3 your cell phone was searched at all?

4 A. It could have been, yes.

5 Q. Do you know one way or the other whether it
6 was?

7 A. I don't. I assume that it probably was.

8 Q. And what do you base that assumption on?

9 A. Because they searched my camera as well.

10 Q. Okay. Any other evidence that you have that
11 your cell phone was searched?

12 A. Because it was taken by Mr. Gonder, and he's
13 the one who searched my cell phone -- I mean my
14 camera, and I believe he searched my cell phone as
15 well. I didn't take any pictures on my cell phone,
16 so.

17 Q. Okay.

18 A. And he -- and I didn't record anything on my
19 cell phone either, and that's why I think he took
20 it.

21 Q. Took it because he didn't want you to record
22 anything on it?

23 A. Took it because he thought I was recording
24 something on it. I don't even know how to record on
25 my cell phone.

Michelle MacDonald Shimota

10/20/2016

Page 21

1 Q. Okay.

2 A. I've never recorded anything on my cell
3 phone.

4 Q. Okay.

5 A. I mean in terms of voice.

6 Q. And before we I think really take a deep
7 dive here into the substance of your claims, your
8 attorney and I have corresponded about some of the
9 economic damages that you initially were seeking in
10 this lawsuit. I just want to confirm with you on
11 the record here today that you have abandoned all of
12 your claims for loss of past and future earnings and
13 income in this lawsuit, correct?

14 A. Yes.

15 Q. I also want to confirm with you on the
16 record today that you have abandoned all of your
17 claims for loss of future earnings capacity in this
18 lawsuit, correct?

19 A. Yes.

20 Q. Have you abandoned your claims -- let me
21 back up a moment. I understand that you may at some
22 point seek your attorneys fees and costs incurred in
23 connection with prosecuting this lawsuit. But have
24 you abandoned your claims for attorneys fees and
25 costs that you incurred defending against criminal

Michelle MacDonald Shimota

10/20/2016

Page 22

1 charges that were brought against you?

2 A. No.

3 Q. You have not abandoned those claims?

4 A. No.

5 Q. Have you abandoned your claims in this
6 lawsuit for attorneys fees and costs you have
7 incurred defending against an action taken by or on
8 behalf of the Minnesota Lawyers Professional
9 Responsibility Board?

10 A. No.

11 Q. You're still claiming those damages in
12 this --

13 A. Yes.

14 Q. -- lawsuit? And if you could let me finish
15 my questions --

16 A. Mm-hmm.

17 Q. -- before you answer, I would appreciate it,
18 and I'll give you the same courtesy. Okay?

19 A. Thank you.

20 Q. Have you abandoned your claims relating to
21 injury to your reputation in this lawsuit?

22 A. No.

23 Q. But you have abandoned them in so much as
24 you're seeking earnings or income damage, correct?

25 A. I'm not sure how that relates, no.

Michelle MacDonald Shimota

10/20/2016

Page 23

1 Q. So you will seek damages for loss of income
2 or earnings based on damage to your reputation?

3 A. If that relates to my reputation.

4 MR. PADDEN: No, no, look --

5 THE WITNESS: No?

6 MR. PADDEN: We've made it clear in
7 this case that -- abundantly clear that she is
8 making no claim for loss of earnings, past or
9 future, however you want to categorize that, or
10 earning capacity. So I guess you can ask a series
11 of questions about it, but I think it's been
12 established on the record, so.

13 MR. TIMMERMAN: Okay.

14 THE WITNESS: Right.

15 BY MR. TIMMERMAN:

16 Q. Talk a little bit about you. You went to
17 Boston College for undergrad, correct?

18 A. Yes.

19 Q. And graduated in 1983?

20 A. Yes.

21 Q. And then you went to Suffolk University Law
22 School obtaining a Juris Doctorate in 1986?

23 A. Yes.

24 Q. And you've owned and operated the MacDonald
25 Law Firm since 2004, is that correct?

Michelle MacDonald Shimota
10/20/2016

Page 24

1 A. Yes.

2 Q. What do you specialize in at the MacDonald
3 Law Firm?

4 A. It was primarily family law, but I do a
5 number of other things, estate planning and wills
6 and trusts, those were two of my main
7 concentrations, parallel, so estate planning, wills
8 and trusts, and also family law.

9 Q. Okay.

10 A. And then many other general things that come
11 up.

12 Q. And I see in your interrogatory answers that
13 you were also an adjunct referee in family court for
14 some time?

15 A. Yes.

16 Q. When was that?

17 A. For many years. I want to say -- I -- I
18 have the dates, like 22 years, maybe a little less
19 than that because they stopped the program.
20 That's -- they stopped the program I believe in
21 January of 2012 maybe or '11. But I was part of it
22 for twenty something years. I don't have the exact
23 dates.

24 Q. And that's okay. Did your involvement end
25 when they stopped the program?

Michelle MacDonald Shimota

10/20/2016

Page 25

1 A. Yes.

2 Q. Okay. And you were also a conciliation
3 court judge for twenty plus years as well, correct?

4 A. Right.

5 Q. And that was in Hennepin County?

6 A. Right.

7 Q. Why did that relationship end? Why did that
8 position end?

9 A. The chief judge wrote me a letter after this
10 incident and said I was no longer needed.

11 Q. After what incident?

12 A. The incident in what -- what the defendants
13 did to me.

14 Q. Okay. When did the chief judge of the
15 Hennepin County District Court write you that
16 letter?

17 A. I think it was right afterwards, I want to
18 say November or December.

19 Q. Do you have any evidence suggesting that
20 your conciliation court judge position was ended
21 because of the allegations in your lawsuit or the
22 conduct in which you allege have engaged in the
23 lawsuit?

24 A. I believe it did. The chief judge is
25 cousins with the judge in Dakota County, so I -- I

Michelle MacDonald Shimota

10/20/2016

Page 26

1 had been a small claims court judge for so many
2 years I can't imagine why except for this incident,
3 why I would get a letter like that.

4 Q. Okay. Which chief -- pardon me, which
5 Dakota County judge is --

6 A. Abrams.

7 Q. Judge Abrams. Okay. And aside from your
8 belief that this relationship ended because they
9 were cousins and that had something to do with it,
10 do you have any other evidence that that was the
11 cause of your conciliation court judge position to
12 end?

13 A. Not that I can recall.

14 Q. You also founded Family Innocence in 2011,
15 correct?

16 A. Yes.

17 Q. Could you tell me a little bit about what
18 Family Innocence is?

19 A. Family Innocence is a nonprofit that's
20 dedicated to keeping families out of court and
21 resolving conflicts and injustices peacefully.

22 Q. And you're in favor of abolishing family
23 court altogether, correct?

24 A. I did have -- yes, yes, I think litigating
25 families has to end.

Michelle MacDonald Shimota

10/20/2016

Page 27

1 Q. Do you also do mediation at all as an
2 alternative dispute resolution?

3 A. Yes.

4 Q. How long have you done that for?

5 A. 25 years.

6 Q. Is that through family justice or is that
7 separately?

8 A. It's through -- family justice? Family
9 Innocence.

10 Q. Excuse me.

11 A. It is through Golden Rule Mediation.

12 Q. Are you still doing that today?

13 A. Yes.

14 Q. And lastly, you're also an author, editor,
15 and publisher, correct?

16 A. Yes.

17 Q. And it looks like you edited a book called
18 bully to death -- "Bullied to Death: Chris
19 Mackney's Kafkaesque Divorce"?

20 A. Yes.

21 Q. And that was released in 2015?

22 A. Yes.

23 Q. It who is Michael Volpe? Is it Volpe?

24 A. Michael Volpe is -- yes, he's in Chicago,
25 he's an author and investigative journalist.

Michelle MacDonald Shimota

10/20/2016

Page 28

1 Q. And how do you know him?

2 A. And how do I know him? He -- I had heard
3 about the upcoming book, I think it was probably in
4 2014, so I called him up.

5 Q. And offered to edit it?

6 A. Well, I -- he was looking for a publisher,
7 and I knew somebody who might be able to publish his
8 book. An attorney and a board member of Family
9 Innocence was starting a publishing company.

10 Q. What's the name of that publishing company?

11 A. I don't remember. I don't remember the
12 name. It had some meaning. I just don't remember
13 the name. I'm sorry.

14 Q. Is that the same publishing company that
15 published your recent book?

16 A. No.

17 Q. Your recent book is entitled, "Sandra
18 Grazzini-Rucki and the World's Last Custody Trial"?

19 A. Right.

20 Q. And that was co-authored with Michael Volpe?

21 A. Right.

22 Q. Who published that book?

23 A. Familycourt.com.

24 Q. And what's Familycourt.com?

25 A. It's an organization that I guess our

Michelle MacDonald Shimota

10/20/2016

Page 29

1 first order -- one of our orders of business was to
2 publish that book.

3 Q. Are you involved in the management of
4 Familycourt.com?

5 A. I'm the president and board member.

6 Q. When was that formed?

7 A. About a year ago.

8 Q. Any other books that you've authored
9 editored [sic] -- excuse me, authored, edited,
10 published, et cetera?

11 A. I don't think so. I'm just -- I've written
12 so much that -- no.

13 Q. Okay. This would be a good example of if
14 you think of something later today --

15 A. Okay.

16 Q. -- that would be responsive, just feel free
17 to stop and we can go back. Okay?

18 A. Mm-hmm.

19 Q. Let's move on then.

20 MR. TIMMERMAN: I'd like to mark this,
21 please, as Exhibit No. 2 to the deposition.

22 MR. PADDEN: Thank you.

23 MR. TIMMERMAN: You bet.

24 (MacDonald Deposition Exhibit No. 2
25 marked for identification.)

Michelle MacDonald Shimota

10/20/2016

Page 30

1 BY MR. TIMMERMAN:

2 Q. Ms. MacDonald, this has been marked as
3 Exhibit 2 to your deposition. Please take a moment
4 to review it and let me know when you're ready.

5 A. I'm ready.

6 MR. TIMMERMAN: Go off the record for
7 one moment.

8 THE VIDEOGRAPHER: Going off the record
9 at 9:10 a.m.

10 (Brief discussion off the record.)

11 THE VIDEOGRAPHER: Back on the record
12 at 9:11 a.m.

13 BY MR. TIMMERMAN:

14 Q. Ms. MacDonald, do you recognize this
15 document?

16 A. Yes.

17 Q. Who drafted it?

18 A. I believe that it was sent to me by this
19 group, the Judicial Election Committee, for editing
20 and that I put it out, I drafted it.

21 Q. I'm sorry, they -- the --

22 A. It was -- they started a draft, and then I
23 finished it. So it was drafted -- you know, by me.

24 Q. Okay. And this was -- it says on the last
25 page, prepared and paid for by MacDonald for

Michelle MacDonald Shimota

10/20/2016

Page 31

1 Justice, is that correct?

2 A. Right.

3 Q. And this was an official campaign release of
4 MacDonald for Justice?

5 A. Yes.

6 Q. And this relates to 2014 Supreme Court
7 election, correct?

8 A. Yes.

9 Q. If you could please turn to the pages with
10 the number 659 at the top of it, flipping over to
11 660. Who are these individuals that are listed on
12 659 and 660?

13 A. They were the judicial selection committee
14 at the time.

15 Q. For the republican party?

16 A. Yes. It's made up of there's ten judicial
17 districts, just so you understand, and there's two
18 appointed representatives from each district that
19 wrote this.

20 Q. And Tim Kinley is listed here. He's got a
21 show called "Speechless," right?

22 A. Right.

23 Q. You've appeared on that show before,
24 correct?

25 A. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 32

1 Q. Did you appear on that show voluntarily?

2 A. Yes.

3 Q. And you've discussed this lawsuit on that
4 show, correct?

5 A. No, I don't know that I -- I mean, I
6 discussed the incident on the show, yes.

7 Q. You've discussed the allegations in your
8 First Amendment complaint on the show, correct?

9 A. I hadn't had the lawsuit, the lawsuit wasn't
10 filed at that time.

11 Q. You discussed your courtroom arrest on
12 Speechless, though, correct?

13 A. Yes.

14 Q. And your subsequent incarceration, correct?

15 A. Yes.

16 Q. If you could please turn to the page
17 numbered 671 at the top. First full paragraph on
18 that page starts with Judge Leslie Metzen. Do you
19 see that?

20 A. Yes.

21 Q. And the last sentence of that paragraph
22 reads, "So her husband's camera with 2,000 personal
23 photos has not been returned to her," and the word
24 "husband's" is italicized. Do you see that?

25 A. Right.

Michelle MacDonald Shimota

10/20/2016

Page 33

1 Q. So the digital camera that was seized from
2 you on September 12, 2013, was that your husband's
3 camera?

4 A. He had purchased it, but it was a family
5 camera. I took all the pictures, not all of them,
6 but he took them, too.

7 Q. How frequently did you use that digital
8 camera prior to September 12, 2013?

9 A. Well, I had taken over 3,000 pictures, so
10 pretty regularly.

11 Q. Why did you bring that particular camera
12 with you to court on September 12, 2013?

13 A. It happened to be in my bag, my pocketbook.

14 Q. Why did you decide to use it at the
15 courthouse that day?

16 A. Because the trial that I was going to had
17 been marked cancelled on a public roster.

18 Q. The public roster hanging outside of the
19 courthouse -- the courtroom, excuse me?

20 A. No, online.

21 Q. The online docket read that the trial had
22 been cancelled?

23 A. Yes.

24 Q. So did you intend to photograph the
25 courtroom docket hanging outside of the courtroom to

Michelle MacDonald Shimota

10/20/2016

Page 34

1 demonstrate that the trial was actually proceeding?

2 A. I went -- when I went through the -- it was
3 the second day of trial when I went -- did I intend
4 to take a picture -- there is no docket. I took a
5 picture of the -- at the clerk's office I believe I
6 took a picture of the docket, the paper docket that
7 was there.

8 Q. Okay. That makes sense. And you also
9 photographed Deputy Timothy Gonder that day,
10 correct?

11 A. Yes.

12 Q. And that was inside courtroom 1F I believe
13 at the courthouse?

14 A. Yes.

15 Q. Why did you decide to photograph Deputy
16 Gonder?

17 A. He was smiling and waving.

18 Q. Had you taken photographs inside a courtroom
19 at the Dakota County Judicial Center before
20 September 12, 2013?

21 A. Yes.

22 Q. Why?

23 A. I don't remember why. It could have been
24 adoption hearings, sometimes with my clients I would
25 take photographs at the courthouse.

Michelle MacDonald Shimota

10/20/2016

Page 35

1 Q. Have you taken any photographs inside the
2 Dakota County Judicial Center since September 12,
3 2013?

4 A. Not that I can recall.

5 MR. TIMMERMAN: Will you please mark
6 this as Exhibit 3 to the deposition.

7 (MacDonald Deposition Exhibit No. 3
8 marked for identification.)

9 BY MR. TIMMERMAN:

10 Q. Ms. MacDonald, you've been handed what's
11 been marked as Exhibit 3 to the deposition. Please
12 take a moment and have a look.

13 Have you had a chance to review this
14 document?

15 A. I've never seen it before.

16 Q. Okay. Do you see --

17 A. And I'm not going to -- I'll have to review
18 it.

19 Q. Well, please take a moment. Do you see in
20 the bottom right-hand corner there is a Bates label
21 that starts with DC and then 00056?

22 A. Right, yes.

23 Q. That indicates these were documents that
24 that have been produced by my client in this lawsuit
25 previously.

Michelle MacDonald Shimota

10/20/2016

Page 36

1 A. Okay. I've never seen this. I can ask my
2 attorney --

3 MR. PADDEN: No, look, he's just
4 asking. I think he wants to ask you questions about
5 it, so --

6 THE WITNESS: Okay.

7 MR. PADDEN: If you feel like you need
8 to read the whole thing, you know, that's fine. But
9 if you can just generally familiarize yourself with
10 it I think that's what he would like, and then he
11 presumably will ask you specific questions.

12 Am I right, Counsel?

13 MR. TIMMERMAN: You're right.

14 MR. PADDEN: Okay.

15 BY MR. TIMMERMAN:

16 Q. Just let me know when you're ready.

17 A. I -- I -- I like to read things carefully,
18 so --

19 MR. PADDEN: Well --

20 A. -- ask away.

21 MR. PADDEN: Do you feel you need to
22 read the whole thing before he asks you questions?

23 THE WITNESS: I haven't seen this
24 before, and I don't know who it was generated by.
25

Michelle MacDonald Shimota

10/20/2016

Page 37

1 BY MR. TIMMERMAN:

2 Q. Well, I'll represent to you if you look at
3 the bottom right-hand corner of the document it
4 says, creation; Christopher T. Melton, September 12,
5 2013.

6 A. Mm-hmm.

7 Q. Do you have any reason for disputing that
8 Sergeant Melton created this incident report on
9 September 12, 2013?

10 MR. PADDEN: I guess lacks foundation.
11 But go ahead and answer.

12 A. I don't know. He -- I have no -- I do I
13 guess. I don't know when this was generated. I
14 have not seen it before.

15 Q. Okay. Could you turn to the second page,
16 please, it's labeled DC 00057.

17 A. Mm-hmm.

18 Q. Top of that page, do you see the sentence in
19 the first paragraph that begins with Deputy Gonder?

20 A. Mm-hmm.

21 Q. And it reads, Deputy Gonder gave me the
22 camera and I went back to the hallway to speak with
23 Judge Knutson.

24 Do you see that?

25 A. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 38

1 Q. Okay. Do you have any knowledge regarding
2 Sergeant Melton taking the digital camera to Judge
3 Knutson?

4 A. No.

5 Q. Any reason for disputing that it was
6 Sergeant Melton who took the camera to Judge
7 Knutson?

8 A. I -- he did some testimony on this, and I
9 thought it was both of them. He testified in court
10 about this, Melton and Gonder.

11 Q. Okay.

12 A. So that would be their -- that would be
13 them. I have no personal knowledge of what took
14 place.

15 Q. And the next sentence reads, I advised him,
16 him here means Judge Knutson, of the situation and
17 asked if I could have a verbal court order to look
18 at the phone's pictures. And I think he means
19 camera there because he's talking about the camera
20 in the previous sentence. He said, yes, and I
21 turned the camera on and observed the picture she
22 had taken of Deputy Gonder.

23 Do you see that?

24 A. Yes.

25 Q. Okay. Do you have any personal knowledge

Michelle MacDonald Shimota

10/20/2016

Page 39

1 regarding any conversations that occurred between
2 Judge Knutson and Sergeant Melton on that day?

3 A. Just what they said.

4 Q. Do you have any reason for disputing that
5 Judge Knutson gave Sergeant Melton permission to
6 search your digital camera?

7 A. No.

8 Q. Do you recall Sergeant Melton giving you
9 copies of Minnesota Rule, General Rule of Practice
10 4.01, on September 12, 2013?

11 A. Yes.

12 Q. And do you recall Sergeant Melton giving you
13 a copy of Minnesota Statute, Section 588.20 on
14 September 12, 2013?

15 A. I believe he did.

16 Q. Now, you've produced Rule 4.01 and Section
17 588.20 in the lawsuit. Are those the copies that
18 Sergeant Melton gave you that day?

19 A. They were copies found in my property bag.

20 Q. So did he physically hand you the rule and
21 the statute that day, copies of them?

22 A. I don't remember him physically handing it
23 to me, he -- he took it back, he -- I don't recall.

24 Q. Okay. He showed it to you and then took it
25 back to the desk --

Michelle MacDonald Shimota

10/20/2016

Page 40

1 A. I don't recall exactly how it went, but I
2 recall them bringing me the statute and the rule,
3 and I told them I didn't break a rule or a statute.

4 Q. Who is Michael Rhedin or Rhedin? How is it
5 pronounced?

6 A. Rhedin.

7 MR. TIMMERMAN: And for the court
8 reporter it's spelled R-H-E-D-I-N.

9 Q. Who is he?

10 A. He was Sandra Grazzini-Rucki's boyfriend.

11 Q. In September of 2013?

12 A. I don't know that they were dating then. He
13 was a supporter of hers, but he was -- he was her --
14 he was her boyfriend.

15 Q. Were they married or just
16 boyfriend/girlfriend?

17 A. Well, that's between them. My understanding
18 is they -- they -- no, they weren't married.

19 Q. On September 12, 2013 after your camera had
20 been taken, do you recall Sergeant Melton informing
21 you that you would be getting a ticket and then you
22 would be released?

23 A. No, I don't, I don't recall that.

24 Q. Do you recall Sergeant Melton asking you for
25 your full name, your date of birth, and your

Michelle MacDonald Shimota

10/20/2016

Page 41

1 address?

2 A. I recall him asking me for my name.

3 Q. What about your date of birth and address?

4 A. I don't remember date of birth or address.

5 Q. Was it your understanding that you'd be
6 issued a citation and then released if you provided
7 your full name, date of birth, and address?

8 A. No.

9 Q. You were never told that at any point by
10 anyone?

11 A. No.

12 Q. So Deputy Gonder never told you that,
13 correct?

14 A. No.

15 Q. If you look again on page DC 00057, at the
16 paragraph starting at 1010 hours, do you see that
17 paragraph?

18 A. Mm-hmm.

19 Q. The fifth line down midway through there's a
20 sentence that begins, I explained. Do you see that?

21 A. Mm-hmm.

22 Q. I explained, this is Sergeant Melton, I
23 explained that she was getting a ticket and then
24 would be released.

25 It's your testimony today that Sergeant

Michelle MacDonald Shimota

10/20/2016

Page 42

1 Melton never explained that to you?

2 A. I don't think he explained it in that way.
3 He was ask -- he asked me my name. I said, you know
4 my name.

5 Q. How did he explain it to you?

6 A. He didn't -- he just -- it -- he -- he -- I
7 was saying I didn't do anything. Then he was
8 bringing me this statute. I said, I didn't violate
9 it. It wasn't a statute. I didn't violate the
10 statute. I didn't violate it. That's how the
11 conversation went.

12 Q. Did you provide Sergeant Melton with your
13 full name?

14 A. I said, you know my name, that was my
15 answer.

16 Q. Did you at any point in time provide
17 Sergeant Melton with your full name?

18 A. No, I think I said, you know my name.

19 Q. Did you provide any other courthouse staff
20 with your name that day, Deputy Gonder, Sergeant Jen
21 Cho, Deputy Napper, did you give any of them your
22 full name?

23 A. I announced it in court.

24 Q. You did?

25 A. I said, you know, that's what you do when

Michelle MacDonald Shimota
10/20/2016

Page 43

1 you're in court. Yes, I announced that I was, you
2 know, Michelle MacDonald representing Sandra
3 Grazzini-Rucki.

4 Q. Did you provide Sergeant Melton with your
5 date of birth on September 12, 2013?

6 A. No.

7 Q. Did you provide him with your address that
8 day?

9 A. No.

10 Q. Did you provide Deputy Gonder with your full
11 name, date of birth, or address that day?

12 A. No.

13 Q. How about Sergeant Cho?

14 A. Cho?

15 Q. Cho. Female sergeant with whom you
16 interacted in the jail holding cell.

17 A. I should write that name down. No.

18 Q. Did you provide Deputy Napper with your full
19 name, your address, and your date of birth that day?

20 A. No.

21 Q. Why not?

22 A. I don't know. I don't know.

23 Q. Why wouldn't you have cooperated with them
24 that day?

25 A. I was cooperating with them.

Michelle MacDonald Shimota
10/20/2016

Page 44

1 Q. But you agree that you weren't providing
2 information that they asked you for, correct?

3 A. I was cooperating with them fully.

4 Q. But it's fair to say that you did not
5 provide them with requested information, correct?

6 A. When they asked me my name I said, you know
7 my name.

8 Q. And did they ask you your date of birth?

9 A. I don't recall.

10 Q. Did they ask you for your address?

11 A. I don't recall.

12 Q. So you made the decision rather than telling
13 them your full name just to say you already know my
14 name, something to that effect?

15 A. They knew my name, yes.

16 Q. At any point in time was it explained to you
17 that you would be issued a citation and immediately
18 released if you just provided this information?

19 A. I don't recall them saying just take the
20 citation and you'll be released. I recall them
21 showing me the statute, almost trying to negotiate.
22 And I said, well -- they brought me the statute,
23 they brought me the rule, and I said I didn't break
24 this rule or this statute. That was how the
25 conversation went and -- and it was --

Michelle MacDonald Shimota

10/20/2016

Page 45

1 Q. Do you recall --

2 A. That's how it went.

3 Q. Do you recall Sergeant Melton testifying in
4 court on September 12, 2013 that if you just
5 provided your full name, your address, and your date
6 of birth you'd be issued a citation and released?

7 A. The -- he testified to what he testified to.

8 Q. Okay. Well, let's look at his testimony
9 then.

10 MR. PADDEN: So is your question, Jeff,
11 whether he said what he said in the courtroom?

12 Q. I'm asking whether she has any reason for
13 disputing that he testified in open court that you
14 would be issued a citation and released if you
15 simply provided your full name, your address, and
16 your date of birth to courthouse staff. Any basis
17 for disputing that?

18 A. His testimony? The fact that he testified
19 to that?

20 MR. PADDEN: Just to be clear for the
21 record, are you asking her whether when he said that
22 he was being honest?

23 Q. What I'm asking, you're saying you don't
24 recall anyone telling you that that day, correct?

25 A. Right.

Michelle MacDonald Shimota
10/20/2016

Page 46

1 Q. And he -- Sergeant Melton testified to
2 precisely that in court that day. Were you present
3 for his testimony?

4 A. It wasn't that day. It was months later.
5 It was months later when he testified to that. I --
6 I --

7 MR. PADDEN: Just wait for the next
8 question.

9 (MacDonald Deposition Exhibit No. 4
10 marked for identification.)

11 BY MR. TIMMERMAN:

12 Q. Ms. MacDonald this is Exhibit 4 to your
13 deposition. Take a moment to familiarize yourself
14 with it.

15 MR. PADDEN: Have you had a chance to
16 look at it, Michelle? He's going to ask you
17 specific questions.

18 THE WITNESS: Yes.

19 BY MR. TIMMERMAN:

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. And this is an affidavit of Judge David
23 Knutson, and an exhibit to that affidavit submitted
24 in the State of Minnesota versus Michelle MacDonald
25 Shimota, correct?

Michelle MacDonald Shimota
10/20/2016

Page 47

1 A. Yes.

2 Q. This was the criminal case that was
3 precipitated by your arrest on September 12, 2013,
4 correct?

5 A. Right.

6 Q. Okay. If you could turn please to Exhibit
7 A, page 44 of the partial court transcript here. Do
8 you see that?

9 A. Hm.

10 Q. So at the top of the page, Ms. MacDonald,
11 you say, can I take a break to get a 2011 calendar.

12 And the court says, we'll take our 15-minute
13 morning break at this time, and then a recess was
14 taken.

15 Do you see that?

16 A. Right.

17 Q. Does that track your recollection of events
18 that day?

19 A. Well, actually the judge gave me a break
20 to -- I didn't ask for the break. He said, good
21 time to take a morning break as I was looking for
22 the calendar.

23 Q. Okay. And then after the recess the court
24 says, all right. We took a break. Ms. MacDonald
25 wanted a calendar. What -- what's happened since

Michelle MacDonald Shimota

10/20/2016

Page 48

1 then, Deputy.

2 And Deputy Melton testified or states on the
3 record, Sergeant Christopher Melton, Dakota County
4 Sheriff's Office. This morning before court
5 convened Ms. MacDonald was seen taking paragraphs of
6 the courtroom. To expedite the court process we
7 waited until a break for her to get a misdemeanor
8 citation. After giving her the citation she was
9 going to be released. I went up to her during
10 break, told her she was under arrest for the offense
11 of Contempt of Court, told her she was not going to
12 be handcuffed, we just needed to get her name, date
13 of birth, and address for the ticket and she'd be
14 released. She has refused. She is still refusing.

15 Were you in the courtroom when Deputy Melton
16 stated this on the record?

17 A. Yes.

18 Q. And on the next page Deputy Melton says at
19 the top of the page, and for the record, as soon as
20 she gives me her full name, date of birth, and
21 address, I will give her her citation and she will
22 be released.

23 Do you see that?

24 A. Right.

25 Q. Were you in the courtroom for that portion

Michelle MacDonald Shimota

10/20/2016

Page 49

1 of Deputy Melton's -- excuse me, Sergeant Melton's
2 record talk, testimony?

3 A. Yes.

4 Q. You were?

5 A. Yes.

6 Q. Does this refresh your recollection that on
7 September 12, 2013 you were told by Sergeant Melton
8 that if you simply provided your full name, your
9 address, and your date of birth you would be issued
10 a citation and released?

11 A. I was sitting there at this moment when he
12 was saying this in handcuffs with a belt, you know,
13 fastened to a belt around my waist. They had taken
14 my shoes off, my jewelry, my hair piece, my glasses,
15 and I was sitting there in a wheelchair. I was
16 already under arrest. I -- this was a trial. I
17 was -- all my boxes and paperwork was gone. That
18 was the context of it. I wasn't -- that was the
19 context of it. He didn't give me a ticket. I don't
20 understand how he could say he is going to give me a
21 ticket and then I would be released and I could be
22 sitting there under arrest at my client's trial.

23 Q. And I understand that --

24 A. And so it -- it -- it does and it doesn't.
25 It doesn't make sense to me. You give -- you just

Michelle MacDonald Shimota
10/20/2016

Page 50

1 get a ticket. What is -- what's -- what is
2 happening here. That -- that was my recollection.
3 I didn't know what was happening.

4 Q. So it's your testimony that you didn't know
5 you would be issued a citation --

6 A. He could have just done it right then and
7 there.

8 Q. May I finish my question, please? It's your
9 testimony that you were not aware on September 12,
10 2013 that if you simply provided Sergeant Melton
11 with your name, your address, and your date of birth
12 you would be issued a citation and released?

13 A. It doesn't -- he -- he could have just
14 issued me the citation right then and there and
15 released me. I don't understand -- if he's saying
16 that, then why doesn't he just issue a citation and
17 release me. If he's saying that's all I'm going to
18 do, then why doesn't he just do that.

19 Q. Because you --

20 A. I was under arrest, that was --

21 MR. PADDEN: Let me see if I can help
22 here, Jeff. I think what you're asking her is does
23 she recall hearing this in court, A, and then B,
24 does it refresh her memory that that's what
25 happened. Is that fair?

Michelle MacDonald Shimota

10/20/2016

Page 51

1 MR. TIMMERMAN: Correct.

2 MR. PADDEN: You have to answer that
3 question, Michelle. So the first part would be do
4 you recall, remember him saying that in court, and
5 then did it happen before he made that record. Is
6 that fair?

7 MR. TIMMERMAN: That's fair.

8 A. I -- I really don't recall. I just was
9 sitting there in -- in a shock. I don't know
10 what -- I didn't know what was happening. I felt
11 like I was in like the twilight zone. I honestly --
12 I don't recall. I don't recall.

13 Q. Well, Deputy Melton --

14 A. It doesn't refresh my memory even. I just
15 don't recall. It doesn't make sense even now
16 reading this.

17 Q. What doesn't make sense?

18 A. It doesn't make sense why I would be sitting
19 there in handcuffs and somebody would be saying all
20 we want to do is give her a ticket. Then give me
21 the ticket. What are you doing to me here?

22 Q. But --

23 A. That -- that's the -- yeah, I was in a total
24 shock of that day. It was nonsensical to me what
25 was happening.

Michelle MacDonald Shimota

10/20/2016

Page 52

1 Q. Sergeant Melton is saying here that he
2 needed your name, your date of birth, and your
3 address to issue you the ticket. And you testified,
4 at least with respect to your name, you didn't
5 provide it to him and wouldn't, correct?

6 A. I didn't -- yes, I didn't. But he knew my
7 name. It doesn't make sense. He had already
8 arrested me before that. He took me out of the
9 courtroom and had arrested me already. So where's
10 this ticket come in? He came -- they came at me and
11 arrested me already and brought me to a holding
12 cell.

13 Q. And we'll talk about that here soon
14 actually.

15 A. So this ticket thing doesn't even -- it's
16 nonsensical what you're saying. You can't make
17 sense out of it.

18 Q. Who removed your court files and belongings
19 from courtroom 1F on September 12, 2013?

20 A. I don't know. I came back and they were all
21 gone.

22 Q. Did you instruct anyone to remove those
23 materials?

24 A. No, I did not. I was taken away. I was
25 just taken away. My phone was taken, I had no

Michelle MacDonald Shimota

10/20/2016

Page 53

1 instruction ability. They just --

2 Q. Did you later learn who removed --

3 A. -- removed me --

4 Q. Did you later learn --

5 A. -- for nothing.

6 Q. Did you later learn who removed your court
7 files and belongings from the courtroom that day?

8 A. I have the video.

9 Q. Who removed them?

10 A. My client.

11 Q. Sandra Grazzini-Rucki?

12 A. Yes.

13 Q. Was Dede Evavold also there that day?

14 A. Yes.

15 Q. Did she help you move those items?

16 A. Looks that way.

17 Q. Was Michael Rhedin there that day?

18 A. He was.

19 Q. Did he help remove those items?

20 A. I don't know if he helped.

21 Q. Did you have an associate attorney there
22 with you that day?

23 A. No.

24 Q. Did you have any of your office staff with
25 you that day?

Michelle MacDonald Shimota

10/20/2016

Page 54

1 A. No.

2 Q. Did you ever attempt to contact Sandra
3 Grazzini-Rucki to get her back in the courtroom on
4 September 12, 2013?

5 A. I couldn't, I was under arrest. Your --
6 your deputies took me away and never -- there was no
7 ability. What are you talking about? That doesn't
8 make sense.

9 Q. Do you recall Judge Knutson telling you on
10 the record at the hearing that day that if you
11 needed to make a phone call to get your belongings
12 and your files you could do that?

13 A. And I said they took my phone.

14 Q. Did you ask to use the court's phone?

15 A. No, I didn't. I was under arrest. What
16 kind of questions are these? I was sitting there --

17 MR. PADDEN: Hey, hey, just --

18 A. -- under arrest.

19 MR. PADDEN: Just answer his questions.

20 THE WITNESS: Okay.

21 MR. PADDEN: Okay?

22 MR. TIMMERMAN:

23 Q. Did you ask for your cell phone back so you
24 could call and get your client and your files?

25 A. I was in a shock. I was silent. I was -- I

Michelle MacDonald Shimota

10/20/2016

Page 55

1 didn't know what to say.

2 Q. So my question --

3 A. No.

4 Q. You did not ask?

5 A. No, I did not.

6 Q. Did you at any point in time ask for your
7 glasses or your shoes when you were sitting at the
8 counsel table --

9 A. No.

10 Q. -- in the courtroom?

11 A. No.

12 Q. I'm sorry, could you let me finish my
13 question? My question was, did you -- while you
14 were sitting at the counsel table did you at any
15 point in time ask for your glasses or your shoes?

16 A. No.

17 Q. Why not?

18 A. I was in a -- I was under arrest. I was in
19 shock. I -- I -- I was -- I didn't even understand
20 what was going on. I was -- I -- I -- I was in a
21 different form. I wasn't the attorney on the case.
22 I was in a -- in a -- in a state of -- I couldn't
23 fathom what was happening to me, that's why.
24 You're -- you're -- you're acting as if this is --
25 it's -- yeah.

Michelle MacDonald Shimota

10/20/2016

Page 56

1 MR. PADDEN: Is Knutson 4?

2 MR. TIMMERMAN: Yes.

3 MR. PADDEN: Okay.

4 (MacDonald Deposition Exhibit No. 5
5 marked for identification.)

6 BY MR. TIMMERMAN:

7 Q. Ms. MacDonald, this is Exhibit 5 of your
8 deposition. I presume that you're familiar with
9 this document, correct?

10 A. Yes.

11 Q. And these are your amended interrogatory
12 answers in this lawsuit, correct?

13 A. Yes.

14 Q. Is that your signature on the last page,
15 page 5?

16 A. Yes.

17 Q. Now, with respect to your Fourteenth
18 Amendment claim, it's my understanding that you
19 claim both the conditions of your confinement in the
20 courtroom holding cell on September 12, 2013 and the
21 conditions of your confinement at the Dakota County
22 jail on September 12th and 13th of 2013 violated
23 your substantive due process rights, is that
24 correct?

25 A. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 57

1 Q. Beyond these two periods of confinement, are
2 there any other -- is there any other basis for your
3 Fourteenth Amendment conditions of confinement claim
4 or is it just these two things?

5 A. I don't know. I -- I don't know.

6 Q. If you could turn please to -- actually, you
7 don't need to turn at all. Do you see interrogatory
8 number 6 on the first page of this document? Do you
9 see that on the first page?

10 A. Oh, on the first page.

11 MR. PADDEN: To which answer? To which
12 interrogatory, Counsel?

13 THE WITNESS: 6.

14 MR. TIMMERMAN: Answer to number 6.

15 BY MR. TIMMERMAN:

16 Q. Do you see that?

17 A. Yes.

18 Q. Does your amended answer to interrogatory
19 number 6 set forth in this document identify all of
20 the ways in which you claim your Fourteenth
21 Amendment rights were violated in the courtroom
22 holding cell area on September 12th of 2013?

23 A. I -- yes, in the sense that you can't write
24 everything down over a 30-hour period.

25 Q. I'm talking about --

Michelle MacDonald Shimota

10/20/2016

Page 58

1 A. These were the main points, yes.

2 Q. Okay. I'm talking about the courtroom
3 holding cell area right now. We'll talk about the
4 jail later. But right now I'm talking about the
5 holding cell area. My question for you is, have you
6 laid out in this answer to interrogatory number 6
7 all of the ways in which you claim your Fourteenth
8 Amendment rights were violated in that courtroom
9 holding cell?

10 MR. PADDEN: Objection; asked and
11 answered. Go ahead and answer.

12 A. It's the gist of it, yes.

13 Q. Explain to me how you ended up in that
14 courtroom holding cell area.

15 A. The deputies took me away and brought me
16 there.

17 Q. Was this during a morning recess?

18 A. The judge called a morning break so that I
19 could get an exhibit.

20 Q. The exhibit --

21 A. And when the judge got off the bench the
22 deputies came at me and brought me to the back.

23 Q. Were you handcuffed when you were brought to
24 the back?

25 A. No.

Michelle MacDonald Shimota

10/20/2016

Page 59

1 Q. How long were you initially back in the
2 courtroom holding cell area?

3 A. I -- I don't recall the exact time. It was
4 awhile.

5 Q. And then at some point you were brought
6 back, correct?

7 A. Oh.

8 Q. To the courtroom?

9 A. Oh, you mean at that point -- yeah they were
10 there, and then they -- they -- yeah, it wasn't that
11 simple. There's a lot of details, but the -- at
12 some point they just said that's it and they took my
13 clothing and my shoes and my jewelry and my glasses
14 and my earrings and my cross and put me in handcuffs
15 and then put me in a cell. And I was in a cell in
16 handcuffs.

17 Q. For how long?

18 A. I don't recall the length of time. It
19 seemed like a long, long, time.

20 Q. Is it fair to say that the video would show
21 when you were in that courtroom holding cell area?

22 A. Yes.

23 Q. And when you said that they took your
24 clothing, the only piece of clothing taken from you
25 was your blazer or dress coat, right?

Michelle MacDonald Shimota

10/20/2016

Page 60

1 A. Right.

2 Q. And then your shoes as well, correct?

3 A. Yes.

4 Q. So I'm trying to understand big picture
5 here. You're originally taken back to a courtroom
6 holding cell area and then you're brought back to
7 courtroom 1F. How many times did you go back and
8 forth in total between the courtroom holding cell
9 area and courtroom 1F?

10 A. My recollection is they brought me to the
11 holding cell area, handcuffed me, put me in the jail
12 cell, brought me back out to -- for the morning
13 session. And then the judge took a lunch break,
14 they brought me back in -- into the holding area in
15 the handcuffs and the wheelchair, and then I was in
16 the cell at that point.

17 And then they brought me back out to the
18 courtroom again for the afternoon session. And then
19 they brought me -- then the judge concluded the
20 trial. And then they brought me back again to that
21 area. I'm not sure whether they put me back in the
22 cell or how that all worked, but it was more than --
23 it was back and forth in that condition.

24 Q. Okay. Thanks for that. So it's three
25 visits in total, you went there, you came out, you

Michelle MacDonald Shimota

10/20/2016

Page 61

1 went there, you came out again, and then you went
2 back?

3 A. I went there -- they brought me, took me
4 away, put me in the cell, brought me back out, took
5 me away, put me in a cell, brought me back out, and
6 then took me away again. So, yeah. Then when the
7 trial was over, I was -- I was in handcuffs from
8 like beginning to end.

9 Q. While you were in that courtroom holding
10 cell area, did anyone tell you that you would be
11 released if you provided your full name, your date
12 of birth, and your address?

13 A. I don't recall. But I didn't get a ticket.
14 So you just give somebody a ticket. Isn't that how
15 it works?

16 Q. So my question --

17 A. I was under arrest already.

18 Q. You don't recall, and that's fine.

19 A. I don't recall.

20 Q. If Sergeant Melton testifies that you were
21 repeatedly told in the courtroom holding cell area
22 that you would be released if you just provided your
23 full name --

24 A. But I was --

25 Q. Let me --

Michelle MacDonald Shimota

10/20/2016

Page 62

1 A. -- I was already --

2 MR. PADDEN: Let him finish the
3 question, Michelle, with all due respect.

4 Q. If Sergeant Melton testifies, and I think he
5 will in this lawsuit, as will others, that you were
6 repeatedly told in the courtroom holding cell area
7 that if you simply provided your full name, your
8 date of birth, and your address you would be
9 released, do you have any evidence that would refute
10 that testimony?

11 A. No. Just doesn't make sense at all.

12 Q. Who initially took --

13 A. Because I'm already under arrest and in
14 handcuffs. That is nonsensical that they're saying
15 just give us your name. I'm already under arrest.
16 That just doesn't -- it's nonsensical to me.

17 Q. Who initially --

18 A. I don't know how that even makes sense.

19 Q. Okay. There's no question pending. Who
20 initially took you to the courtroom holding cell
21 area that first time?

22 A. I believe it was two of the deputies. It
23 might have been three.

24 Q. Do you know their names?

25 A. I -- at the time I didn't. It was like

Michelle MacDonald Shimota

10/20/2016

Page 63

1 swarms of bees, you know, you just -- they're all
2 dressed the same. I wasn't paying any attention to
3 them during the trial. I think on the video it
4 shows it was Gonder and Melton. I'm not remembering
5 if there was a third one.

6 Q. Okay. Now, you claim in the interrogatory
7 number 6 in your answer here, your amended answer,
8 that you were taunted in the courtroom holding cell
9 area. What did you mean by that?

10 A. They taunted me by saying -- you know, like
11 there were -- there were prisoners in the glass
12 area, because there's like a glass area there, and
13 they said things like, well, you're an attorney and
14 you don't know what to do, and these prisoners know
15 what to do. They also said, who do you think you
16 are, Nelson Mandela. When I started to cry they --
17 for my husband, they said, you know, crocodile
18 tears. So that kind of taunting, like you're --
19 you're a nothing, you're a piece of crap, you --
20 you -- you are stupid. That kind of atmosphere was
21 created by them.

22 And this was after we -- I mean, we were
23 talking about -- you know, they brought the -- and I
24 said I didn't do anything. They already knew I
25 didn't do anything. You look at it and you know

Michelle MacDonald Shimota

10/20/2016

Page 64

1 that I didn't commit a crime, and I didn't violate
2 the rule. You already know looking at it. So that
3 they were talking to me, so. There was nothing that
4 I did criminal obviously. So it was crazy making.

5 Q. Did any of the deputies call you a nothing?

6 A. Not verbally, no.

7 Q. Did any of the deputies call you stupid?

8 A. No. Those aren't the words they used.

9 Q. Did any of the deputies call you a piece of
10 crap?

11 A. Those weren't the words they used.

12 Q. Any other way in which you were taunted in
13 that courtroom holding cell area?

14 A. Another that I recall at this time it was,
15 you know -- it was -- it was those types of things
16 that were happening.

17 Q. This Nelson Mandela comment I've seen
18 recycled over and over again here, can you give me
19 some context for how that comment came up, what you
20 said, what they said?

21 A. I was, again, under arrest or whatever you
22 want to call it. And that's -- I believe it was
23 Gonder that said that. Gonder was, who do you think
24 you are, Nelson Mandela.

25 Q. What was the context of him saying that?

Michelle MacDonald Shimota
10/20/2016

Page 65

1 A. The context of him saying it is I'm -- I'm
2 under arrest, I'm -- I'm in a -- I can't even
3 understand what's happening at this point. That was
4 the context.

5 Q. Let me try and clarify a little bit. Was
6 this comment said to you on the heels of the
7 deputies trying to get you to give them their full
8 name -- your full name, excuse me?

9 A. I don't recall that. I don't recall. It
10 was a -- again, like I say, it was a shocking -- it
11 was just absolutely shocking what I was experiencing
12 at that time, because I had done nothing wrong,
13 nothing whatsoever.

14 Q. Well, you keep saying you did nothing wrong,
15 but Judge Knutson ultimately found that there was
16 probable cause for your arrest, correct?

17 A. Well, that --

18 Q. It's a yes or no question.

19 A. Yes. But, you know, that I didn't -- I
20 didn't do a crime. She -- she knew that. I don't
21 understand what you're talking about there.

22 Q. And do you understand --

23 A. I really, it doesn't concern me what --
24 there was no -- I did nothing, absolutely nothing
25 wrong. I did nothing criminal. I didn't -- I

Michelle MacDonald Shimota

10/20/2016

Page 66

1 didn't even violate a civil rule. I did nothing
2 wrong.

3 Q. And do you --

4 A. Nothing.

5 Q. Do you understand in this lawsuit that Judge
6 Tunheim has concluded previously that there was at
7 least arguable probable cause for your arrest?
8 Correct?

9 A. I don't recall.

10 Q. Who removed your jewelry in the holding cell
11 area?

12 A. I believe it was Melton.

13 Q. Who removed your hair piece?

14 A. I believe it was Melton. You know, I might
15 have taken it off and taken off my hair piece.

16 Q. What about your glasses?

17 A. They asked -- they ordered me to strip all
18 of my things. I was just doing what they were
19 telling me to do at that point.

20 Q. Well, you've used the word strip here. I
21 just want to make sure, at no point in time on
22 September 12th or September 13th were you ever
23 stripped searched, correct?

24 A. They stripped me of all of my glasses and my
25 jewelry.

Michelle MacDonald Shimota

10/20/2016

Page 67

1 Q. Got it.

2 A. Yeah, they stripped -- and my pieces of my
3 clothing.

4 Q. And you were not strip searched at any point
5 in time on September 12th or 13th, correct?

6 A. No. If you mean by strip searched they took
7 my clothes off?

8 Q. Correct.

9 A. Is that what they do when they strip search?

10 Q. That's a strip search.

11 A. Oh, no.

12 Q. You were not strip searched?

13 A. No.

14 Q. When exactly do you claim that your gold
15 cross pendant was misplaced?

16 A. When I got home and I looked in my property
17 bag the cross was gone.

18 Q. Do you know when in the inventory process
19 you claim that it was misplaced precisely?

20 A. That is their -- for them to know. I wasn't
21 involved in any type of inventory process, they just
22 took my materials.

23 Q. Let's, if we could, review this video here.
24 I will -- I will note that this video was produced
25 in this litigation as confidential subject to the

Michelle MacDonald Shimota

10/20/2016

Page 68

1 protective order.

2 And you recognize this video footage,
3 correct?

4 A. Yes.

5 Q. In fact, you produced in this litigation a
6 CD or DVD to me with three videos on it, correct?

7 A. I subpoenaed it from your office the week
8 following the trial, and it still has not all been
9 given to me, just so you know.

10 Q. Did you ever obtain a --

11 A. I subpoenaed all of the -- all of the video
12 from both days and from September 6, and it's
13 been -- your office has not given it to me. That
14 was in the Grazzini-Rucki federal case.

15 Q. Did you obtain this video in your criminal
16 case?

17 A. Yes.

18 Q. Did you obtain the courtroom video in your
19 criminal case, too?

20 A. Yes.

21 Q. It's my understanding that there were three
22 videos in your criminal case that were provided to
23 Mr. Grigsby, the courtroom video, this video, and
24 then another video of the holding cell area?

25 A. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 69

1 Q. Have you ever disseminated that video to
2 anyone?

3 A. No.

4 Q. You've never provided a copy to --

5 A. I -- I -- I was not -- oh, probably, yes,
6 I've provided of a copy of that video.

7 Q. Who have you provided it to?

8 A. Of that video? I had no obstructions with
9 that one.

10 Q. Of the video you received in your criminal
11 case.

12 A. The video I received in my criminal case
13 once the criminal case was over I don't even recall
14 who I -- it wasn't a problem to do that, so.

15 MR. PADDEN: He's not asking that.
16 He's just asking who.

17 A. Yeah, I don't know exactly who.

18 Q. More than one person?

19 A. Perhaps.

20 Q. Did you provide any of that footage to Terry
21 Nemmers?

22 A. No, I didn't. He got it on his own.

23 Q. How did he get it?

24 A. I believe he did a public request.

25 Q. From whom -- to whom I should say?

Michelle MacDonald Shimota

10/20/2016

Page 70

1 A. I'm not sure, you'd have to ask him.

2 Q. Do you recall one person to whom you gave
3 that video?

4 A. Since then, the two -- in the two and a half
5 years?

6 Q. Yeah.

7 A. Yeah, I gave to Sean Dooley, 20/20, it
8 was -- I gave it to my attorneys in your case. I
9 gave it to -- I guess that might be all. I don't
10 recall anyone else.

11 Q. Have you ever posted that video online?

12 A. No, I haven't. Oh, I might have just
13 recently, yes.

14 Q. Where at?

15 A. I had a -- I'm not sure because the YouTube
16 that I have and I put up the video. I put up the
17 video. And that was probably the video that I had.
18 So that is -- it's on YouTube. I don't know if it's
19 public, but it's on YouTube.

20 Q. Okay. Who is Terry D. Nemmers?

21 A. I -- he is a reporter, Lion News.

22 Q. Have you met him?

23 A. No.

24 Q. Spoken with him?

25 A. Yes.

Michelle MacDonald Shimota

10/20/2016

Page 71

1 Q. Communicated with him by e-mail?

2 A. I don't know about by e-mail.

3 Q. Let's look at this video if we could, and
4 I'm going to try my best -- I'm basing my hard stops
5 in this video off of that time stamp at the top. Do
6 you see it? So 9-12 of '13, 10:28:49, so 10:28 a.m.
7 and 49 seconds. And technology is my friend today.
8 I'm going to make it big. I'm going to skip forward
9 here.

10 What are you talking with Deputy Napper
11 about here?

12 A. I think -- I think that's the paperwork they
13 gave me with the rule and the statute. They brought
14 that to me.

15 Q. Okay.

16 A. And they are talking about -- oh, wait a
17 minute. I -- I -- as I recall they were -- I was
18 just saying I didn't do anything, and they were
19 showing me the statute. And I was saying, well,
20 look, I didn't -- here's what it says. And it was
21 kind of like a -- like they were counseling me or I
22 was counseling that I didn't do anything wrong.

23 Q. This is Jon Napper, right?

24 A. I believe I'm -- yes.

25 Q. Who is that?

Michelle MacDonald Shimota

10/20/2016

Page 72

1 A. That is -- is that Wegner?

2 Q. Bob Wegner, okay.

3 A. And at this point I'm not knowing who's who,
4 because they're just swarms of bees to me. They
5 just all look the same. This all --

6 Q. Now we're starting in the portion of the
7 video where you're starting to take off your jewelry
8 and stuff.

9 A. Okay. Okay.

10 Q. So here you are, looks like you dropped
11 something. What did you drop? Do you know? There
12 go your earrings.

13 A. I don't recall. I still have my cross on.
14 All right. This I don't -- I don't even know --

15 Q. Where are you putting this? Into a bag?

16 A. I don't even have this video.

17 MR. PADDEN: Just answer his question,
18 Michelle.

19 Q. Are you putting these materials into a bag?

20 A. It looks that way, yeah.

21 Q. Okay.

22 MR. PADDEN: So is there a question
23 pending, Counsel? I'm sorry.

24 Q. Where on the necklace is your pendant at
25 this point?

Michelle MacDonald Shimota

10/20/2016

Page 73

1 A. It's on the necklace.

2 Q. Okay. We're almost there. I apologize, the
3 skip ability on this isn't the best.

4 MR. PADDEN: Are you trying to find
5 something, Jeff?

6 MR. TIMMERMAN: Yeah.

7 MR. PADDEN: Okay.

8 BY MR. TIMMERMAN:

9 Q. And that's Deputy Gonder, correct, who just
10 walked out of the picture?

11 A. I believe so.

12 Q. What are you doing with your necklace at
13 this point in time?

14 A. I'm taking it off. The deputy is taking it
15 off.

16 Q. This is Deputy Napper, correct?

17 A. Yes.

18 Q. Fair to say that he's helping you remove
19 your necklace?

20 A. Yeah. Right. Okay.

21 Q. Necklace is off?

22 A. Right.

23 Q. And Deputy Napper is taking off your
24 necklace, correct?

25 A. Right.

Michelle MacDonald Shimota

10/20/2016

Page 74

1 Q. And he's placing it in the inventory bag,
2 correct?

3 A. Right.

4 Q. Are you aware of whether or not that
5 necklace was ever removed from the inventory bag
6 before you received that inventory bag upon your
7 release from the jail?

8 A. It wasn't in my bag when I got home.

9 Q. Okay.

10 A. That's all I know.

11 Q. So it's your testimony that the gold cross
12 pendant was affixed to the necklace at this point in
13 time when Deputy Napper helped you --

14 A. Not affixed, it was a loose like this one, I
15 mean, it just was a necklace that I always wore.
16 See what I'm saying?

17 Q. It was one piece?

18 A. No, it wasn't one piece. I still have the
19 chain.

20 MR. PADDEN: I think what he's asking,
21 was it on the chain.

22 A. Oh, yeah, it was on the chain.

23 Q. It was on the chain?

24 A. Mm-hmm.

25 Q. Okay. So it wasn't permanently affixed, it

Michelle MacDonald Shimota

10/20/2016

Page 75

1 was more of like a charm on a chain type of --

2 A. It was, yes, it was on a chain, right.

3 Q. All right. Let's fast forward a little bit.

4 Do you know who this is?

5 A. I don't. I don't. It -- that woman?

6 Q. That's Sergeant Cho. And she's pat
7 searching you here, correct?

8 A. Yeah.

9 Q. Any issues with how you were pat searched in
10 the jail -- in the holding cell area?

11 A. I have issues with this whole thing.

12 Q. You're claiming that the pat search violated
13 your constitutional --

14 A. The whole -- the whole thing.

15 Q. Let me ask my question. Are you claiming
16 that this pat search violated your constitutional
17 rights?

18 A. I don't know. The whole thing.

19 Q. Any recollection of what you were discussing
20 with the deputies at this point in time?

21 A. No.

22 MR. PADDEN: Did you hear her answer,
23 Madam Court Reporter?

24 THE REPORTER: Mm-hmm.

25 A. No.

Michelle MacDonald Shimota

10/20/2016

Page 76

1 Q. Okay. So the video is at 10:45:25. We're
2 approaching the point where you're going to be
3 handcuffed. Do you recall being handcuffed at this
4 point in time? That's what's going on here, right?

5 A. Mm-hmm. Yes.

6 Q. And that's Deputy Napper handcuffing you
7 with the assistance of Sergeant Cho, correct?

8 A. Yes.

9 Q. And then at 10:46:00 you're placed in the
10 cell by Sergeant Cho, correct?

11 A. Yes.

12 Q. And she removes your shoes, correct?

13 A. Yes.

14 Q. Let's skip forward a little bit. I have one
15 more question about this particular piece of the
16 video. At the 10:57 mark the cell door is open,
17 correct?

18 A. Yes.

19 Q. And you're in the cell, correct?

20 A. Yes.

21 Q. And wheelchair approaches at 10:57:45,
22 correct?

23 A. Yes.

24 Q. It looks like it's Sergeant Melton --

25 A. Yeah.

Michelle MacDonald Shimota

10/20/2016

Page 77

1 Q. -- and Deputy Napper that assists you in
2 sitting in the wheelchair, correct?

3 A. Four of them.

4 Q. Sergeant Napper and Deputy Melton actually
5 lifted you, correct?

6 A. There were four deputies on me at this
7 point.

8 Q. Why were you placed in a wheelchair?

9 A. You'll have to ask them. I -- I was in a
10 shock.

11 Q. Is it fair to say that you refused to stand
12 up and walk out --

13 A. I was under arrest and in a cell and in
14 handcuffs and all of my liberties were completely
15 gone to move.

16 Q. Were you given the option of standing and
17 walking back to the courtroom on your own volition?

18 A. I don't recall.

19 Q. Is it fair to say that you refused to stand
20 and walk on your own volition and that's why you
21 were placed in a wheelchair?

22 A. No, that's not fair.

23 Q. Why is that not fair?

24 A. Because I was in circumstances, I just --
25 it's not fair.

Michelle MacDonald Shimota

10/20/2016

Page 78

1 Q. Did you refuse to stand up?

2 A. I don't recall.

3 Q. Did you refuse to walk?

4 A. I don't recall.

5 Q. Did you refuse to put your glasses on?

6 A. I -- they took away all my liberties. No, I
7 don't recall. I -- the glasses thing, I was -- I
8 understood -- I think I had a belt around my waist
9 and they came back with the glasses. What was that
10 going to do? That was my point. What was that
11 going to do? Just let me go. Just give me all of
12 my freedoms. What are glasses going to do? I have
13 to go back and do a trial. So that was my thoughts,
14 my understanding at the time that again I am in a
15 shock and in a -- and this is nonsensical to me that
16 they're bringing a wheelchair, they have me
17 completely under arrest, and I'm in a cell in
18 handcuffs, and as you can see here, four deputies
19 around me. What's going on?

20 Q. Were your glasses --

21 A. That was my thinking. I wasn't thinking
22 glasses, I was in -- I couldn't -- I couldn't think.
23 I was in a shock.

24 Q. Were your glasses offered to you by the
25 deputies?

Michelle MacDonald Shimota

10/20/2016

Page 79

1 A. I don't recall. I -- I -- I -- I -- as I
2 think about it, if they -- I don't know if they
3 brought me my glasses or what happened, but it
4 didn't make sense. I mean, I'm here in handcuffs in
5 a wheelchair, you're giving me my glasses, I'm --

6 Q. So you --

7 A. My hands were tied, how am I going to get my
8 glasses? It's nonsensical what they were doing.

9 Q. You didn't want your glasses?

10 A. I wanted my complete liberties. I wanted
11 everything. I wanted to just get lost. I was not
12 going to get upset. They were -- they were -- there
13 were four deputies around me. I don't know what to
14 say. I don't know what to do. I'm -- I'm -- you
15 know, they have guns. They --

16 Q. That's not my question.

17 MR. TIMMERMAN: Could you re- --

18 MR. PADDON: Counsel, she's answering
19 your question, with all due respect.

20 BY MR. TIMMERMAN:

21 Q. My question is a simple one. Did you desire
22 not to put your glasses on?

23 A. I -- I wanted my complete --

24 Q. That's not my question.

25 A. -- liberties back, and they were -- there

Michelle MacDonald Shimota

10/20/2016

Page 80

1 were four deputies around me at this point.

2 Q. My question is, did you specifically make
3 the decision not to put your glasses on?

4 A. No, they took my glasses, and they made me
5 take them off.

6 Q. And you said they were given back to you or
7 at least offered to you. Did you desire not to put
8 them back on?

9 A. I couldn't put them back on, my hands -- my
10 hands were in handcuffs.

11 Q. Did you ask for assistance?

12 A. That's a nonsensical -- that's a nonsensical
13 question. But now --

14 Q. Did you ask for assistance putting your
15 glasses back on?

16 A. Did I ask for assistance? I don't recall.

17 Q. Did you ask --

18 A. I -- maybe something like, well, you put
19 them on me, because my hands were in handcuffs.
20 I -- why are they giving me my glasses? Why are
21 they not giving me all of my liberties at this
22 point? That was -- as I go back, what is going on
23 is my question.

24 Q. Do you recall --

25 A. This is just -- for you to justify any of

Michelle MacDonald Shimota
10/20/2016

Page 81

1 this is outrageous to me.

2 Q. Do you recall --

3 A. That somebody like me is supposed to, oh,
4 you didn't ask for your glasses. This is outrageous
5 to me what you're --

6 Q. All I'm trying to do --

7 A. Do you see this picture here, four deputies
8 around me and I'm in handcuffs and a wheelchair and
9 they're bringing me back out to do a trial and you
10 think this is okay? Sorry. Do you think this is
11 okay?

12 Q. My job here today is --

13 A. They're bringing me back out for a trial and
14 you're asking me about --

15 Q. We're going to be here all day --

16 A. -- glasses?

17 Q. We're going to be here all day.

18 MR. PADDEN: Just go to your next
19 question, Jeff.

20 Q. My job here today is to learn the facts that
21 support your claims. I would appreciate you
22 answering the questions that I ask you. I
23 understand your positions in this lawsuit. I get
24 it. I know what your -- what your position is.
25 Okay?

Michelle MacDonald Shimota

10/20/2016

Page 82

1 A. Well, this speaks for itself in my book.

2 Q. Okay.

3 MR. PADDEN: That's okay. But, Jeff,
4 go ahead and ask her the next question. And then
5 we'll -- if she's nonresponsive I'll -- I'll --

6 Q. Do you recall being given the option to put
7 your shoes back?

8 A. No, I don't recall.

9 Q. Did you ask to put your shoes back on?

10 A. I don't recall.

11 Q. Did you ask to put your glasses back on?

12 A. I don't recall. I asked to be -- I wanted
13 to get out -- I wanted to be free. That's -- that's
14 all I recall, that I was completely debilitated,
15 completely debilitated, so glasses or shoes was not
16 going to make me free, them giving me permission for
17 different things, permission to speak, permission
18 to -- it is -- it's nonsensical.

19 Q. My clients will say you were placed in a
20 wheelchair because you refused to stand and you
21 refused to walk of your own will. Do you have any
22 evidence to refute what they will say?

23 A. They arrested me, and I was immobilized. I
24 was immobilized. So however they want to from their
25 perspective, from my perspective I am immobilized.

Michelle MacDonald Shimota

10/20/2016

Page 83

1 That's my perspective and that's all I can speak to.

2 Q. What do you mean by immobilized?

3 A. Immobilized, all of -- every single piece of
4 liberty that I had was taken away that day. I'm
5 immobilized. I can't see. I have -- I have -- I'm
6 in handcuffs. I'm immobilized. They immobilized
7 me. So -- so -- so that's what I mean. Every
8 liberty was taken away at that moment. You're --
9 you're -- you're -- you're under duress.

10 MR. PADDEN: Answer the question.
11 Don't comment on how he's asking the questions,
12 okay, just you answer the question.

13 Q. Is it fair to say that at this point in the
14 video, 10:58:11, you were being uncooperative?

15 A. No.

16 Q. You were cooperative --

17 A. I was being completely cooperative, because
18 they had completely immobilized me and I
19 immobilized. I was being completely cooperative.
20 That was the problem. I cooperated with them
21 putting handcuffs on me. I cooperated with them
22 taking me in the back. I cooperated with them
23 wholeheartedly. Wholeheartedly. They -- yeah, I
24 cooperated. That is not --

25 MR. PADDEN: Wait for the next

Michelle MacDonald Shimota

10/20/2016

Page 84

1 question, Michelle.

2 Q. So as you sit here today can you tell me why
3 a wheelchair was used to bring you back to the
4 courtroom?

5 MR. PADDEN: I guess I'll object to the
6 form of the question. How is she possibly supposed
7 to know that.

8 MR. TIMMERMAN: Based on --

9 MR. PADDEN: That's a question for the
10 defendants. But based on your knowledge, subject to
11 that objection, please answer.

12 BY MR. TIMMERMAN:

13 Q. Let me rephrase it. As you sit here today,
14 what is your understanding of why a wheelchair was
15 used to escort you back to the courtroom on
16 September 12, 2013?

17 A. Because I was immobilized and they had to
18 bring something to put me in.

19 Q. Were you able to physically --

20 A. To -- to -- they -- I -- I don't know --
21 yes, no, I'm able to physically walk, physically --
22 I -- that's all I can say.

23 Q. Were you able to physically stand at the
24 time?

25 A. I don't recall.

Michelle MacDonald Shimota

10/20/2016

Page 85

1 Q. Were you able to physically walk at the
2 time?

3 A. I don't recall. I was in a state of
4 immobilization and shock at this point. I don't
5 know why they brought the wheelchair.

6 Q. To circle back to my prior question, which
7 you did not answer, if my clients testified you were
8 placed in a wheelchair because you refused to stand
9 or walk of your own volition, do you have any
10 evidence to refute that testimony?

11 MR. PADDEN: Objection; asked and
12 answered. Go ahead and answer.

13 A. Yes, because I have my perspective.

14 Q. And your perspective, if I'm
15 understanding you correctly --

16 A. They immobile --

17 Q. May I finish?

18 A. They put me in this position. They
19 immobilized --

20 Q. May I finish, please?

21 A. -- me.

22 Q. Your perspective, as I understand it, is
23 that you were immobilized, correct?

24 A. Yes.

25 Q. Thank you. Let's move --

Michelle MacDonald Shimota

10/20/2016

Page 86

1 MR. PADDEN: Can we take a short break,
2 Counsel? It's been about an hour and 45 minutes.
3 Is that okay?

4 MR. TIMMERMAN: Certainly.

5 THE VIDEOGRAPHER: We're going off the
6 record. That will be end of disc one in the
7 deposition of Michelle Shimota. The time is 10:25
8 a.m.

9 (Break from 10:25 to 10:38 a.m.)

10 THE VIDEOGRAPHER: We're back on the
11 record. This is the continuation of the deposition
12 of Michelle Shimota, the beginning of disc two, the
13 time is 10:38 a.m.

14 BY MR. TIMMERMAN:

15 Q. Ms. MacDonald, when we left off we had just
16 reviewed a video entitled JDC adult holding number 2
17 and then 9-12-13. I'd like to look at another video
18 here, and this one is JDC adult cell, the number 2,
19 9-12-13.

20 Were you provided a lunch or a meal of some
21 type in this cell?

22 A. I believe so, yes.

23 Q. Now, you've alleged in the lawsuit that
24 deputies callously threw a lunch bag at you. Do you
25 recall that?

Michelle MacDonald Shimota

10/20/2016

Page 87

1 A. Yes.

2 Q. Could you explain to me exactly what
3 happened?

4 A. My recollection, you can play the video, is
5 that they opened the door and threw a lunch bag onto
6 that table. And my hands were in handcuffs around
7 my belt, so they didn't -- they didn't give me the
8 lunch. They tossed it onto that event. And then I
9 was also attached to the -- understood I was
10 attached to the wheelchair as well.

11 Q. Let's look at this here, this video.

12 A. Yes.

13 Q. We're at 12:37:10 right now.

14 A. Mm-hmm.

15 Q. Your cell door is opened up and there's
16 Sergeant Melton. Do you see him?

17 A. No.

18 Q. He's about to pop his head back in. Do you
19 agree with me that's Sergeant Melton?

20 A. Yes.

21 Q. Okay. And he's setting a lunch bag down on
22 this silver pedestal here. Do you see that?

23 A. Yes.

24 Q. Okay. And then he's exiting the cell,
25 correct?

Michelle MacDonald Shimota

10/20/2016

Page 88

1 A. Yes.

2 Q. He didn't throw a lunch bag at you, correct?

3 A. No.

4 Q. Would you agree with me that that was not a
5 callous act of throwing a lunch at you, that was
6 setting a lunch down on the pedestal, correct?

7 A. Well, how am I going to reach it is what I
8 mean by callous. He didn't intend to -- how am I
9 going to reach it? I'm in handcuffs and I think
10 there's a belt around my waist and my handcuffs are
11 attached to this belt. And also at this point I
12 believe I was attached to the wheelchair. And if
13 you -- oh, you can see it here. My fear was that if
14 I stood up I would fall and smash my head onto that
15 piece of cement. So I didn't -- I wasn't able to
16 stand up at this point. There's a toilet behind
17 here as well.

18 Q. Okay. Let's continue watching then. Your
19 cell door is open at this time, correct? Now it's
20 closing.

21 A. Yes.

22 Q. There's a bit of a pause here, and then at
23 12:38:01 you've lifted up the lunch bag and put it
24 on your lap. Do you see that?

25 A. Mm-hmm.

Michelle MacDonald Shimota

10/20/2016

Page 89

1 Q. So you're now in possession of the lunch
2 bag, correct?

3 A. Right.

4 Q. And then you throw it to the floor. Did you
5 see that?

6 A. Yes.

7 Q. Okay. So you're the one who threw the
8 lunch?

9 A. I dropped it.

10 Q. You dropped it or you threw it?

11 A. I dropped it.

12 Q. Let's watch again. Okay. We're at 12:38:01
13 again, you picked up the lunch. Okay. What are you
14 intending to do with the lunch here? Set it back on
15 the tray? Keep it in your lap? What is your
16 intent?

17 A. As I recall I was trying to get it on my lap
18 and trying to -- I -- I -- again, I was attached to
19 the wheelchair I thought, and I was trying to get it
20 to do something with it to try to eat it.

21 Q. Okay. And so it's your testimony that you
22 dropped the lunch and you didn't throw it, correct?

23 A. Right.

24 Q. Okay.

25 A. And then I went to reach for the milk and I

Michelle MacDonald Shimota

10/20/2016

Page 90

1 dropped that, too.

2 Q. Did you ask anyone to pick up the milk or
3 the lunch bag for you?

4 A. No.

5 Q. Do you recall Sergeant Melton offering to
6 uncuff you so you could eat the lunch?

7 A. No. He could have uncuffed me at any time.

8 Q. You don't recall --

9 A. It's his decision to cuff me and his
10 decision to uncuff me.

11 Q. You don't recall him ever asking -- ever
12 offering to uncuff you, correct?

13 A. No, never.

14 Q. Any reason to dispute that you were
15 ultimately returned to courtroom 1F at the direction
16 of court staff?

17 A. I don't know. I was just brought there my
18 perspective. My experience was all of a sudden I'm
19 being brought back to my trial.

20 Q. Do you recall telling Sergeant Melton that
21 you did not want to go back to court because you
22 were under arrest?

23 A. I don't recall that. I may have said that
24 because they had arrested me and I was in their
25 custody and this was humiliating. And I was just --

Michelle MacDonald Shimota
10/20/2016

Page 91

1 I may have said, what are you bringing me back here
2 for, what's going on. I was afraid to say anything.

3 Q. If you could please flip back to Exhibit 2.
4 I'm sorry, I meant Exhibit 3. If you could flip to
5 the page DC 00058 at the bottom right-hand corner.
6 Okay. Third full paragraph on that page starts
7 with, the courtroom 1F court. Do you see that?

8 A. Yes.

9 Q. At courtroom 1F court called me and asked if
10 Ms. MacDonald could be brought back into the
11 courtroom.

12 A. Mm-hmm.

13 Q. You said you don't have any knowledge,
14 personal knowledge, about any discussions between
15 Sergeant Melton and court staff, correct?

16 A. Obviously, no.

17 Q. So you see two sentences later, I told her
18 that she would be released as soon as she gave her
19 information, period?

20 A. Mm-hmm.

21 Q. Do you recall Sergeant Melton telling you
22 that while you were inside the cell --

23 A. Hm.

24 Q. -- in the courtroom holding area?

25 A. No.

Michelle MacDonald Shimota

10/20/2016

Page 92

1 Q. She refused to go to court and said she
2 wasn't going, Sergeant Melton says next. Is that an
3 accurate depiction of your response to the request
4 to bring you back to court?

5 A. No.

6 Q. What did you say exactly?

7 A. I don't -- I don't rem- -- I just said, what
8 are you doing. If I said anything it was like,
9 release me, let me free. I -- you've just
10 completely debilitated me.

11 Q. And in the next sentence?

12 A. It was -- yeah.

13 Q. In the next sentence Sergeant Melton says,
14 she said she wasn't going to stand up. Do you
15 recall ever telling Sergeant Melton that?

16 A. I don't recall telling him that, no.

17 Q. And it says, Deputy Gonder got a wheelchair
18 and brought it next to her holding cell. She
19 refused to stand up and Deputy Napper and I lifted
20 her up by the arm -- by her arms and set her in the
21 wheelchair to take her to court. Which is what
22 we've seen on the video happening, correct?

23 A. Right, yes.

24 Q. In the paragraph starting, the court took a
25 lunch break. Do you see that paragraph?

Michelle MacDonald Shimota

10/20/2016

Page 93

1 A. Mm-hmm.

2 Q. And this tracks with your recollection, the
3 court took a lunch break and you were brought back
4 to the holding cell area?

5 A. Mm-hmm.

6 Q. Sergeant Melton says, she refused to allow
7 me to remove her handcuffs so she could eat and
8 would not cooperate with removing the handcuff belt.

9 Does this refresh your recollection at all
10 about Deputy Melton offering to uncuff you and
11 remove --

12 A. No.

13 Q. -- the handcuff belt?

14 A. No.

15 Q. You're not claiming that my clients
16 confiscated or removed any of your court papers or
17 belongings from courtroom 1F on September 12th,
18 correct?

19 A. No. They had -- they had already taken what
20 they -- they took my phone and other belongings. I
21 didn't know at the time who took them. I just came
22 back out to an empty courtroom.

23 MR. PADDEN: Just to be clear for the
24 record, Counsel, when you're asking that question
25 are you saying -- is your question did the deputies

Michelle MacDonald Shimota

10/20/2016

Page 94

1 physically take any of her file, is that what --

2 MR. TIMMERMAN: Correct, any of her
3 court file that she had in the courtroom that day or
4 court papers.

5 MR. PADDEN: Okay. Not whether they
6 may have directed somebody to do something but
7 whether they physically took it?

8 MR. TIMMERMAN: Correct.

9 MR. PADDEN: Okay.

10 BY MR. TIMMERMAN:

11 Q. I think you testified that you don't know
12 how they ended up --

13 A. Not that I'm aware of.

14 MR. PADDEN: I just wanted to clarify
15 all that. Sorry to interrupt.

16 Q. Do you have any personal knowledge regarding
17 how or why Ms. Grazzini-Rucki or Ms. Evavold decided
18 to remove the items from the courtroom that day?

19 A. No.

20 Q. So you don't know why they made that
21 decision?

22 A. Well, they -- my understanding is they --
23 their attorney was arrested and they were told the
24 trial was over and left.

25 Q. Okay. And who told them that the trial was

1 over?

2 A. You'll have to ask them.

3 Q. You weren't there for that conversation,
4 correct?

5 A. Obviously. I was locked up.

6 Q. Have we discussed all the ways in which you
7 claim your Fourteenth Amendment rights were violated
8 vis-à-vis your detention in the courtroom holding
9 cell area on September 12?

10 A. My -- they were violated immediately when
11 they took me away. That -- that's the violation.
12 And that was a 30-hour period.

13 Q. I'm talking --

14 A. So, no, there is not a possibility for me to
15 go over 30 hours of that experience.

16 Q. I'm talking specifically about the courtroom
17 holding cell area, your detention in that courtroom
18 holding cell area prior to the time you were moved
19 to the jail. Have we discussed all the ways in
20 which you claim your constitutional rights were
21 violated in that the courtroom holding cell area?
22 Or is there anything you'd like to add?

23 A. They were -- it was an ongoing violation
24 from the beginning. I'm -- I'm not sure everything
25 has been discussed right now. It's in my -- it's in

1 my materials.

2 Q. In your amended interrogatory answers?

3 A. In amended and the complaint, so I'm -- I'm
4 not -- I'm not going to say I told every single
5 thing.

6 Q. Okay. And that's fair. So --

7 A. Yeah.

8 Q. -- if we talk about looking cumulatively
9 here, your testimony today, and if we look to your
10 amended interrogatory answers and to your complaint,
11 does that describe all of the ways in which you
12 claim your rights were violated in this courtroom
13 holding cell area?

14 A. My rights were violated by the fact of the
15 arrest. You get that, right? That's all you need.
16 They were violated immediately.

17 Q. Okay. That's not my question, though. My
18 question was, is it fair to say if I take your
19 testimony today and look at your amended
20 interrogatory answers and your first amended
21 complaint, have we now identified all of the ways in
22 which you claim that your constitutional rights were
23 violated in that courtroom holding cell area?

24 A. Almost all, yes.

25 Q. What else is there that we haven't --

Michelle MacDonald Shimota

10/20/2016

Page 97

1 A. I -- I -- if you go from beginning to end
2 there's 30 hours of ongoing violations of my civil
3 liberties. I was arrested and put in handcuffs and
4 brought out into the world in that condition to do a
5 trial.

6 Q. But again, I'm talking specifically about
7 the courtroom holding cell area. Is there any other
8 way in which you claim your rights were violated in
9 that holding cell area that --

10 A. The whole thing was a violation, so I've
11 described to you a few of the incidents. Thank you.

12 Q. Okay. What incidents in that courtroom
13 cell --

14 A. You'd have to watch the whole video. The
15 whole thing --

16 Q. May I finish my question?

17 A. -- was a violation.

18 MR. PADDEN: Let him finish the
19 question, Michelle.

20 Q. In the courtroom holding cell area what
21 other ways are you claiming your due process rights
22 were violated that we haven't discussed?

23 A. By being in there my due process rights were
24 violated, by just being in there. So the whole
25 thing, anything that happened in there was a

Michelle MacDonald Shimota

10/20/2016

Page 98

1 violation. Every single conceivable thing that
2 happened during that period was a violation of my
3 civil rights. They just took me out of my life.

4 Q. Anything else?

5 A. No.

6 (MacDonald Deposition Exhibit No. 6
7 marked for identification.)

8 BY MR. TIMMERMAN:

9 Q. Ms. MacDonald, this is Exhibit No. 6 to your
10 deposition.

11 A. Mm-hmm.

12 Q. Once again, I'll represent to you that this
13 Exhibit No. 6 was produced by me in this lawsuit, by
14 my clients.

15 THE WITNESS: Michael, do you have
16 this? I've never seen it.

17 MR. PADDEN: I don't know. Just wait
18 for the question, please.

19 BY MR. TIMMERMAN:

20 Q. It's Bates labeled DC 00038. Do you see
21 that in the bottom right-hand corner?

22 A. Right.

23 Q. Do you recognize this document?

24 A. No, I don't.

25 Q. Okay. Do you have any basis for disputing

Michelle MacDonald Shimota

10/20/2016

Page 99

1 the authenticity of this document?

2 A. I --

3 MR. PADDEN: Excuse me. Objection;
4 lacks foundation. She's never seen it before.

5 A. I never --

6 MR. PADDEN: Just let me make my
7 objection. There's no possible way she could answer
8 that question, Counsel, since she just said she's
9 never seen it before. All due respect, I think we
10 should just move to the next question.

11 BY MR. TIMMERMAN:

12 Q. Any basis for disputing that you were moved
13 to the jail at approximately 2:46 p.m. on September
14 12, 2013?

15 A. I'm trying to think of when the trial was
16 over. After I finished the trial or -- and the
17 judge got off the bench, they wheeled me to the
18 next -- the next level, the next phase.

19 Q. To the jail, correct?

20 A. To the adjacent jail, yes.

21 Q. And you were transported there via an
22 underground tunnel, correct?

23 A. Yes.

24 Q. Okay. Who transported you to the jail?

25 A. I'm not sure individually who it was because

Michelle MacDonald Shimota

10/20/2016

Page 100

1 the video you supposedly provided is inoperable and
2 I can't open it. Do you have a copy of it here I
3 might be able to look at so I can answer that
4 question more specifically? I just don't -- there
5 were three deputies that got in an elevator with me.
6 I saw that video.

7 Q. Okay. Which three deputies were those? Do
8 you recall?

9 A. I know one of them was Napper because I
10 looked and saw Napper on his lapel.

11 MR. TIMMERMAN: I'm going go back to
12 the video for a second, Mike, please.

13 BY MR. TIMMERMAN:

14 Q. Okay. Let me show you how we access this
15 footage. Okay? This has been produced to you.

16 A. It has not, no.

17 Q. It has.

18 A. No, it has not.

19 Q. This video --

20 A. I would ask that it be produced like today
21 to my attorney in operable form. We cannot open
22 your -- so it has not been produced. You can't
23 produce something and say you produced it when you
24 can't even open it. That is not a production, sir.
25 So I'm asking you today will you reproduce all of